

First Reading
September 13, 2018
Item No. 7.17

Second Reading
September 27, 2018
Item No. 7.12

ORDINANCE NO. 2018-00117

AN ORDINANCE AMENDING CHAPTER 8, "BUSINESSES AND AMUSEMENTS" BY ADDING ARTICLE 8.21 "BICYCLE AND SCOOTER SHARING"; AMENDING CHAPTER 20 "TRAFFIC", BY AMENDING THE DEFINITION OF "BICYCLE" TO INCLUDE THOSE OPERATING WITH ELECTRIC POWER, TO DEFINE "SCOOTER", AND INCLUDING ELECTRIC BICYCLES AND SCOOTERS WITHIN THE EXCEPTION TO THE DEFINITION OF "VEHICLES"; AMENDING CHAPTER 20 SECTION 20.09 TO INCLUDE SCOOTERS THROUGHOUT; AMENDING CHAPTER 24 "VEHICLES FOR HIRE" SECTION 24.01.002 TO EXCLUDE BICYCLE AND TRICYCLE FROM THE DEFINITION OF "NONMOTORIZED PASSENGER TRANSPORT VEHICLES"; AND AMENDING CHAPTER 36 "STREETS, SIDEWALKS AND OTHER PUBLIC WAYS", ARTICLE 36.01 BY ADDING SECTION 36.01.009; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; AND PROVIDING FOR PUBLICATION.

WHEREAS, pursuant to the Texas Transportation Code Section 311.001, the City of Lubbock maintains and regulates the streets and alleys within the City of Lubbock; and

WHEREAS, pursuant to the Texas Transportation Code Section 316.021, cities may grant permission and prescribe the consideration and terms for the use of a portion of a municipal street or sidewalk for a private purpose if it does not interfere with the public use of the street or sidewalk nor create a dangerous condition on the street or sidewalk; and

WHEREAS, by allowing permitted bicycle and scooter sharing programs, the City of Lubbock can offer its citizens a variety of transportation options, increase mobility in the city, maintain all current uses of streets and sidewalks, and regulate the placement and proliferation of bicycles and scooters in the city's right-of-way; and

WHEREAS, the City of Lubbock desires to create a pilot program to allow the city to offer and evaluate the use and regulation of bicycle and scooter share programs that will use the city's right-of-way; and

WHEREAS, the City Council of the City of Lubbock, Texas deems it in the best interest of the citizens of Lubbock to make the following amendments to Chapters 8, 20, 24 and 36 of the Code of Ordinances with regard to the administration, permitting, and regulation of bicycle share and scooter share companies operating in the City of Lubbock; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT Chapter 8 of the code of Ordinances of the City of Lubbock, Texas, is hereby amended by adding Article 8.21, to read as follows:

ARTICLE 8.21 BICYCLE AND SCOOTER SHARING

Sec. 8.21.001 Definitions

1. *Bicycle.* Every device propelled by human or electric power upon which any person may ride, having two (2) or more wheels, any of which is over fourteen (14) inches in diameter.
2. *Bicycle Sharing.* The renting of a bicycle(s) on a short-term basis generally in exchange for compensation.
3. *Home Zones:* At its sole discretion, the City may create Home Zones designated by the City Manager, which shall be identified on a map to be made available in the office of the City Secretary, wherein the Permittee shall use the City of Lubbock Right-of-Way on a non-exclusive basis, solely for the purpose of placement of Bicycles or Scooters for rental.
4. *Scooter.* Every device propelled by human or electric power upon which any person may ride, having a narrow footboard mounted between two (2) or more wheels with an upright steering handle attached to the front wheel.
5. *Scooter Sharing.* The renting of a scooter(s) on a short-term basis generally in exchange for compensation.
6. *Vendor.* Any person or entity that distributes bicycles or scooters for rental.

Sec. 8.21.002 Vendor Permit Required

- (a) It shall be an offense for a vendor that provides bicycles or scooters for the purpose of bicycle sharing or scooter sharing to place bicycles or scooters in the city's right-of-way, or other City property, without a bicycle or scooter share permit obtained from and authorized by the office of the City Secretary.
- (b) Failure to obtain a permit required under this section for offering bicycles or scooters for bicycle sharing or scooter sharing shall result in impoundment of every bicycle or scooter placed upon the right-of-way or any other public property.
- (c) An impound fee shall be assessed for every bicycle or scooter collected due to vendor operations in violation of the permit requirement of this section, and vendor shall pay \$175 for the redemption and release of each impounded bicycle or scooter.
- (d) The City Secretary may issue permits authorized under this article for twelve (12) months after the effective date of this ordinance.
- (e) To obtain a permit the vendor must:

1. Have a current contract with one or more of the institutions of higher education within the City of Lubbock and be able to supply the City Secretary with proof of said contract;
 2. Apply for an annual bicycle or scooter share permit on a form approved by the City Attorney and located in the Office of the City Secretary; and
 3. Comply with all of the operational, financial, reporting, and all other requirements found in the bicycle or scooter share permit.
- (f) Permit fee shall be \$750 and is subject to annual review pursuant to Section 1.03.004 of the City Code of Ordinances.

Sec. 8.21.003 Permit Denial and Revocation

The City Secretary may determine that a vendor's permit should be denied or revoked for the reasons set forth below. The City Secretary shall provide written notice of the denial or revocation of a permit to the vendor, detailing the reason for the denial or revocation of the permit, and a statement informing the vendor of its right to appeal the denial or revocation of its permit to the Permit and License Appeal Board, in the manner set out in Chapter 2, Article 2.03 of this Code of Ordinances.

- (a) Denial of Permit. The application shall be denied, and no permit shall be issued, if the City finds that:
1. Any statement made in the application is incomplete, inaccurate, misleading, or false; or
 2. The vendor has not complied with this article or has had a history of noncompliance with the provisions of this article.
- (b) Revocation of Permit. The City may revoke a permit due to vendor's failure to comply with permit requirements, this article, or any applicable federal, state, or local law or regulation. Permits may also be revoked for one or more of the following reasons:
1. Poor customer response or service;
 2. Posing an unreasonable risk to the health, safety and welfare of the general public; or
 3. Nonpayment for monies owed City in accordance with this article and the permit.

Sec. 8.21.004 Home Zones

The City Council of the City of Lubbock authorizes the City Manager to create, modify, or remove home zones for bicycle and/or scooter sharing within the City of Lubbock.

SECTION 2. THAT Chapter 20, Section 20.01.001 of the Code of Ordinances of the City of Lubbock, Texas, the specified definitions are hereby amended and a new definition added alphabetically as follows:

Sec. 20.01.001 Definitions

Bicycle. Every device propelled by human or electric power upon which any person may ride, having two (2) or more wheels, any of which is over fourteen (14) inches in diameter.

Scooter. Every device propelled by human or electric power upon which any person may ride, having a narrow footboard mounted between two (2) or more wheels with an upright steering handle attached to the front wheel.

Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved by human power, bicycles or scooters moved by electric power, or used exclusively upon stationary rails or tracks.

SECTION 3. THAT Chapter 20, Sections 20.09.001 and 20.09.002 of the Code of Ordinances of the City of Lubbock, Texas, are hereby amended as follows:

ARTICLE 20.09 BICYCLES & SCOOTERS

Sec. 20.09.001 Application of traffic regulations

Every person riding a bicycle or scooter upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic ordinances of this city applicable to the driver of a vehicle, except as to special regulations in this article and except as to those provisions of laws and ordinances which by their nature can have no application.

Sec. 20.09.002 Application of article; violations

(a) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any provision of this article.

(b) These regulations applicable to bicycles and scooters shall apply whenever a bicycle or scooter is operated upon any street or upon any public parking lot or upon any public path set aside for the exclusive use of bicycles or scooters, subject to those exceptions stated herein.

SECTION 4. THAT Chapter 24, Section 24.01.002 of the Code of Ordinances of the City of Lubbock, Texas, stated definition is hereby amended as follows:

Sec. 24.01.002 Definitions

Nonmotorized passenger transport vehicle. Any vehicle designed to transport passengers that is not powered by a motor, including, but not limited to, a horse-drawn carriage, or pedicab.

SECTION 5. THAT the Code of Ordinances, City of Lubbock, Texas, is hereby amended by adding a section, to be numbered Section 36.01.009 of the Code of Ordinances of the City of Lubbock, Texas, which said section reads as follows:

Sec. 36.01.009 Obstruction of streets, alleys, sidewalks, or any other public right-of-way

It shall be unlawful for any person to obstruct or encumber, in part or entirely, any portion of any public street, alley, sidewalk, or any other public right-of-way within the corporate limits of the city with any item, whether temporary or permanent, except as allowed with an applicable permit under this code or pursuant to an express authorization in another section of this code that authorizes certain, specific temporary use or obstruction.

SECTION 6. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by a fine not to exceed applicable fines in accordance with Section 1.01.004 of the City Code of Ordinances.


SECTION 7. THAT should any paragraph, sentence, clause, phrase or work of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 8. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

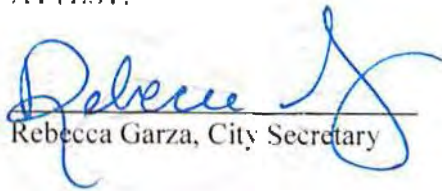
Passed by the City Council on first reading this 13th day of September, 2018.

Passed by the City Council on second reading this 27th day of September, 2018.



DANIEL M. POPE, MAYOR

ATTEST:


Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:


W. Jarrett Atkinson, City Manager

APPROVED AS TO FORM:


Kelli Leisure, Assistant City Attorney

BICYCLE or SCOOTER SHARE PERMIT

STATE OF TEXAS §
 § **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF LUBBOCK §

THIS PERMIT AGREEMENT is made and entered into by and between the **CITY OF LUBBOCK, TEXAS**, a home-rule municipal corporation, hereinafter called the “City” and _____, a _____ corporation licensed in _____, hereinafter called the “Permittee”. In consideration of the mutual covenants and agreements set forth herein, and other good and valuable consideration, City does hereby grant a Bicycle-share/Scooter-share Permit (circle one).

This Permit is granted subject to the terms and conditions set forth below:

1. Term. This Permit shall expire on the ____ day of _____, 2019, and may be renewed annually upon the request of Permittee and upon approval by the City Secretary pursuant to Section 8.21.002 of the City of Lubbock Code of Ordinances.

2. Definitions. For the purpose of this Permit, the following terms shall apply:
 - a. *Bicycle*: Every device propelled by human or electric power upon which any person may ride, having two (2) or more wheels, any of which is over fourteen (14) inches in diameter.

 - b. *Bicycle Fleet or Scooter Fleet*: All Bicycles or Scooters owned by the Permittee operating in the City.

 - c. *Bicycle Sharing and Scooter Sharing*: The renting of Bicycles or Scooters, respectively, on a short-term basis generally in exchange for compensation.

 - d. *Home Zones*: At its discretion, the City may create Home Zones designated by the City Manager, which shall be identified on a map to be made available in the office of the City Secretary, wherein the Permittee may use the City of Lubbock Right-of-Way on a non-exclusive basis, in accordance with the terms of this Permit, solely for the purpose of offering Bicycle sharing or Scooter sharing within the City.

 - e. *Right of Way*: Streets, sidewalks, alleys, and other pathways open to the public, excluding those found in public parks.

 - f. *Scooter*: Every device propelled by human or electric power upon which any person may ride, having a narrow footboard mounted between two or more wheels with an upright steering handle attached to the front wheel.

3. Use. Permittee's customers may use the Right-of-Way for parking of Bicycles or Scooters owned and maintained by Permittee, and for riding Bicycle Fleet Bicycles or Scooter Fleet Scooters subject to, and in accordance with, state and local laws. This authorization is not a lease or an easement, and is not intended and shall not be construed to transfer any real property interest in City property. Permittee shall not place or attach any personal property (other than Bicycles or Scooters), fixtures, or structures to Right of Way without the prior, separate written consent of the City Manager, and such writing shall be a part of this Permit to the same extent as if it was set forth herein. Use of the Right of Way by Permittee and Permittee's operations and use by Permittee's customers within the City must conform to the requirements of the City of Lubbock Code of Ordinances 20.09.003 and, shall, at a minimum:

- a. Not adversely affect the property of any third parties;
- b. Not inhibit pedestrian movement or ADA access within Rights-of-Way, Parks and Other City Property; and
- c. Not create conditions which are a threat to public safety and security.

4. Bicycles. All Bicycles that are part of the Bicycle Fleet shall:

- a. Comply with all applicable local, state, and federal laws and regulations covering Bicycles. This includes the standards outlined in the [State of Texas Transportation Code under Title 7, Chapter 551, Subchapter B, Section 551.104 – Safety Equipment](#) and the Code of Federal Regulations (CFR) under Title 16, Chapter II, Subchapter C, Part 1512 – Requirements for Bicycles;
- b. Include a front light that emits white light visible from a distance of at least 500 feet in front of the Bicycle and a rear red reflector or light that is visible when directly in front of motor vehicle headlamps from a distance between 50 to 300 feet to the rear of the Bicycle; or a lamp that emits a red light visible from the distance of 500 feet to the rear of the Bicycle;
- c. Be branded with an identification number and the Permittee's logo to identify Permittee's Bicycles;
- d. Be attractive, highly durable, theft and vandal resistant, able to weather winter conditions, safe, comfortable, easy to use by a wide range of customers and include an adjustable seat;
- e. Come with a self-locking mechanism and remain upright when parked; and
- f. **Not display third-party advertising**, except when there is an agreement with the institution of higher education that requires the school name and/or logo on the bicycles.

5. Scooters. All Scooters that are part of the Scooter Fleet shall:

- a. Comply with all applicable local, state, and federal laws and regulations covering Scooters;
- b. Include a front light that emits white light visible from a distance of at least 500 feet in front of the Scooter and a rear red reflector or light that is visible when directly in front of motor vehicle headlamps from a distance between 50 to 300 feet to the rear of the Scooter; or a lamp that emits a red light visible from the distance of 500 feet to the rear of the Scooter;
- c. Be branded with an identification number and the Permittee's logo to identify Permittee's Scooters;
- d. Be attractive, highly durable, theft and vandal resistant, able to weather winter conditions, safe, and easy to use by a wide range of customers;
- e. Come with a self-locking mechanism and remain upright when parked; and
- f. **Not display third-party advertising**, except when there is an agreement with the institution of higher education that requires the school name and/or logo on the Scooters.

6. Bicycle and Scooter Parking. If the City at its sole discretion creates City Manager-designated Bicycle and Scooter parking Home Zones those zones must be used to station Bicycles in the Bicycle Fleet and Scooters in the Scooter Fleet and rebalance any concentration of Bicycles or Scooters greater than allowed per zone to another zone of lower concentration within the allowable limits of this Permit. If created, Home Zones will be identified on a map available at the office of the City Secretary. All parking must be in accordance with the following:

- a. Bicycles in the Bicycle Fleet or Scooters in the Scooter Fleet shall be parked in accordance with the City of Lubbock Code of Ordinances 20.09.003;
- b. Bicycles in the Bicycle Fleet or Scooters in the Scooter Fleet shall be restricted to the following parking regulations when parked on the sidewalk:
 - i. Bicycles and Scooters can only be parked on hard surfaces (e.g. concrete, asphalt, brick);
 - ii. Bicycles and Scooters shall not be parked at the corners of sidewalks or within five (5) feet of crosswalks or curb ramps;
 - iii. Bicycles and Scooters parked on sidewalks must not reduce the minimum ADA clear sidewalk width of thirty-six (36) inches; and
 - iv. Bicycles and Scooters shall not be parked in any way blocking:
 - 1. Transit stops, shelters or platforms;

2. Commercial loading zones;
 3. Railroad tracks and crossings;
 4. Passenger loading zones or valet parking service areas;
 5. Handicap parking zone;
 6. Street furniture that requires pedestrian access (for example - benches, parking pay stations, etc.);
 7. Curb ramps;
 8. Entryways; and
 9. Driveways;
- c. Bicycles and Scooters may be parked on private property only with the permission of the private property owner;
 - d. Bicycles and Scooters shall stand upright when parked;
 - e. City may add, remove, or modify locations in the Home Zones at its sole discretion and;
 - f. Permittee must actively manage the Bicycle Fleet or Scooter Fleet to ensure orderly parking and the free and unobstructed use of the Right-of-Way. Any Bicycle or Scooter that is parked improperly shall be re-parked in a correct manner or shall be removed by Permittee within the timeframe as outlined in Section 12(e).

7. Communication with City.

- a. The Permittee must appoint a project manager to be the key point of contact for the Vendor's operations. The project manager must have at least three (3) years experience providing management of similar programs;
- b. The project manager must attend all meetings required by the City in order to implement, monitor, and evaluate the program in accordance with this Permit. The project manager must develop, prepare, update, and distribute a monthly status report that details the services provided to the City Secretary. During the first six (6) weeks, the "Implementation Phase", the frequency of this task shall be weekly; once the program is fully operational, the frequency of the meetings will be monthly; and
- c. The project manager shall be responsible for managing the overall program

implementation and for directing the day-to-day operations of the program.

8. Customer Communication. Permittee shall:

- a. Educate customers regarding laws applicable to riding and operating a Bicycle or Scooter in the City of Lubbock;
- b. Instruct customers on how to park a Bicycle or Scooter legally and properly;
- c. Provide a mechanism for customers to easily and quickly notify the Permittee that there is a safety or maintenance issue with the Bicycle or Scooter, such as in the mobile application;
- d. Provide sufficient staff to handle rentals, Bicycle or Scooter dispatching, operations, customer relations, and other administrative responsibilities as required by this Permit;
- e. Maintain a 24-hour customer service phone number for customers to report safety concerns or complaints, or ask questions with a minimum one (1) hour response time;
- f. Provide customer service via mobile application, website and toll-free phone number enabling customers, citizens, or the City to ask questions, report Bicycles or Scooters that are damaged or improperly parked, request refunds or otherwise receive support;
- g. At the discretion of the City, distribute a customer survey developed by the City before the end of the pilot term; and
- h. Lead outreach efforts to business associations, major developers and property managers, community groups and other key stakeholders, to solicit input on the program operations and obtain program feedback.

9. Technology

- a. Permittee must offer state-of-the-art Bicycle or Scooter-share technology utilizing at least one of the following advanced technologies:
 - i. A mobile application to accept payments, handle all aspects of rental transactions, and provide information on Bicycle or Scooter availability and locations;
 - ii. GPS technology or equivalent technology to provide real-time tracking of Bicycle or Scooter location and routes and to record trip data;
 - iii. RFID and/or NFC technology that enables customers to rent Bicycles or

Scooters from mobile devices, access cards or other similar devices; and

- iv. Geofencing ability to virtually designate the Home Zones or parking areas to support Bicycle Fleet or Scooter Fleet management.

10. Condition of City of Lubbock Right of Way

- a. City makes the Right-of-Way available to Permittee in an "AS IS" and "WITH ALL FAULTS" condition. City makes no representations or warranties concerning the condition of the Right-of-Way or its suitability for use by Permittee or its customers, and assumes no duty to warn either Permittee or its customers concerning conditions that exist now or may arise in the future; and
- b. City assumes no liability for loss or damage to Permittee's Bicycles, Scooters, or other property. Permittee agrees that City is not responsible for providing security at any location where Permittee's Bicycles or Scooters are stored or located, and Permittee hereby waives any claim against City in the event Permittee's Bicycles, Scooters, or other property are lost, damaged, or stolen.

11. Maintenance and Care of portion of Right-of-Way and Parks: Permittee expressly agrees to repair, replace, or otherwise restore any part or item of real or personal property that is damaged, lost, or destroyed as a result of the Permittee's use of Right-of-Way and other City Property. Should Permittee fail to repair, replace, or otherwise restore such real or personal property, Permittee expressly agrees to pay City's costs in making such repairs, replacements, or restorations. In the instance of failure to pay, the City shall deduct costs of repairs from Permittee's escrow account with the City.

12. Operations & Maintenance.

- a. Permittee shall be responsible to maintain the Bicycle Fleet or Scooter Fleet. Permittee shall be solely responsible for all maintenance and service costs in order to maintain the Bicycle Fleet or Scooter Fleet and associated maintenance;
- b. Permittee must provide ground operations to ensure the safety, accessibility, and placement of Bicycles or Scooters throughout the City. Permittee's operational responsibilities include but are not limited to:
 - i. Daily Bicycle or Scooter rebalancing and distribution throughout the City to ensure a minimum number of functional Bicycles or Scooters are operational daily (at each designated Home Zone if so designated);
 - ii. Pick-up and replacement of Bicycles or Scooters found parked in violation of Lubbock City Ordinances and this Permit within the specified period of time;
 - iii. Pick-up and delivery of Bicycles or Scooters to a contracted Bicycle or

Scooter mechanic that are reported to be in unfit riding condition; and

- iv. Delivery of Bicycles or Scooters back to Home Zones from the mechanic once repaired (if Home Zones are designated).
- c. Permittee must provide a mechanism to track customers who do not operate and/or park Bicycles or Scooters in accordance with the laws of the state and ordinances of the City of Lubbock, with the option to ban users from access to the Bicycle Share or Scooter Share program;
- d. Permittee must have a mechanism for reporting Bicycles or Scooters parked illegally and for timely moving incorrectly parked Bicycles or Scooters back to a Home Zone, if so designated;
- e. Permittee must be able to receive notifications on Bicycle or Scooter issues and provide a resolution within two (2) hours from notification;
- f. Permittee must comply with all City of Lubbock ordinances and requirements for Bicycle Share or Scooter Share operators; and
- g. Any Bicycle or Scooter found and retrieved by the City in any body of water shall be deemed unsalvageable and may be immediately discarded by the City and Permittee shall not be entitled to, or receive, any payment for the cost of the Bicycle or Scooter.

13. Impoundment of Bicycles and Scooters

- a. The City shall impound all Bicycles or Scooters which:
 - i. Are not operated and/or parked in accordance with state law and city ordinances; or
 - ii. The Permittee has not timely responded to a complaint and/or collected a Bicycle or Scooter in accordance with Section 12 of this Permit;
- b. Every Bicycle or Scooter that is impounded may only be redeemed and released by paying a fee of **ONE HUNDRED AND NO/100 DOLLARS (\$100.00)** to the City of Lubbock for each Bicycle or Scooter; and
- c. Upon fourteen (14) days notice of impoundment, each Bicycle or Scooter that remains within the possession of the City shall become and remain the property of the City.

14. Data Collection and Reporting. Permittee must maintain current, detailed data on Bicycle Share or Scooter Share customers and program usage. The data that the

Permittee is expected to collect and report for the above includes, but is not limited to:

- a. Bicycle or Scooter location data available on a per-Bicycle or per-Scooter, real-time basis including, but not limited to:
 - i. Location of parked Bicycles or Scooters;
 - ii. Bicycle or Scooter identification number; and
 - iii. Type of Bicycle or Scooter;
- b. Trip-level data for each trip to inform and support safe and effective operation and management of the program;
 - i. System reports including, but not limited to:
 1. Total users in system by month;
 2. Daily, weekly, and monthly trips;
 3. Detailed, aggregate trip origin/destination information for planning purposes; and
 4. Trip length and time;
- c. Maintenance and customer service reports:
 - i. Provide a detailed record of all maintenance performed on each Bicycle or Scooter;
 - ii. All reported collisions; and
 - iii. All customer service inquiries provided on a monthly basis; and
- d. Data Security:
 - i. Permittee shall be responsible for providing secure system applications; and
 - ii. Permittee shall provide the appropriate safeguards within the environment, and should include the use of encryption software and unique IDs and passwords to protect the data's confidentiality, integrity, and availability. All applications must meet security standards appropriate for the information type that they will be storing, processing or transmitting. If the application will not be storing, processing or

transmitting any explicitly regulated information, then Payment Card Industry (PCI) Data Security Standard (DSS) [PCI DSS 3.2](#) compliance standards will be used as a best practices guide. All applications must meet Personally Identifiable Information (PII). PII standards must be physically stored within solution architecture within the United States. Proposer(s) must provide their most recent third party PCI audits.

15. Nonexclusive Permit. This Permit is nonexclusive and is subject to:

- a. Any existing utility, drainage, or other facility located in, under, or upon the Right- of-Way;
- b. Any existing permit, easement or other similar interest granted by City to any individual, corporation or other entity, public or private; and
- c. All other matters of record.

16. Superior Right. This Permit is subject and subordinate to the prior and continuing right of City, its successors and assigns to use all of the public property for the public benefit. City, for itself and other Permitted users, reserves full rights, consistent with the rights herein granted.

17. Termination. This Permit is revocable and may be terminated by either party for convenience upon thirty (30) days written notice.

18. Permit Fee. Permittee shall pay City the sum of **SEVEN HUNDRED FIFTY AND NO/100 DOLLARS (\$750.00)**, non-refundable Permit fee upon submission of application for each Bicycle Fleet or Scooter Fleet. All Permit fee payments shall reference this Bicycle-Share Permit on the check and shall be paid to City at the following address:

City of Lubbock, Texas
Office of the City Secretary
1625 13th Street, Room 206
Lubbock, TX 79401

19. Escrow Accounts. The Permittee must provide five thousand and no/100 dollars (\$5,000.00) in cash per every fleet with the size of 1-1,000 Bicycles or Scooters within the City's boundaries (not prorated) that the City will hold in escrow for the term of this Permit. In the event of default, termination, or violation of the terms of this Permit, the City may use such funds to remove or dispose of the Bicycle Fleet or Scooter Fleet, or any part thereof, or repair City property that was damaged by the Permittee or its customers or invitees. If at any time the escrow fund is diminished to one thousand five hundred and no/100 dollars (\$1,500), the fund shall be immediately replenished by the Permittee to the original amount of five thousand and no/100 dollars (\$5,000.00). At the conclusion of the term of this Permit, the City will return the remaining

escrow funds, if any, to Permittee or its designee within thirty (30) days after the City receives a written request for a refund from the Permittee. If money is refunded within six (6) months of deposit, only the principal will be refunded. If Permittee does not request a refund within six (6) months after default or termination of this Permit, escrow fund shall be forfeited to the City.

20. Liability Insurance.

- a. During the Permit term Permittee shall maintain a policy of general liability insurance at Permittee's expense insuring Permittee against liability assumed by Permittee hereunder and insuring Permittee and City against liability arising out of or in any way incident to use or occupancy of City property. Such policy or policies shall provide that the policy is primary and shall apply without regard to other policies separately carried. The initial amount of required insurance shall be at least \$1,000,000.00 Combined Single Limit for Personal Injury, Bodily Injury, including Death and Property Damage, and shall be subject to period increases based upon inflation, recommendation of professional insurance advisors, and other relevant factors.
- b. City, its elected officials, officers, agents and employees must be named as an additional insured under all liability insurance policies required by this Permit. All policies shall be endorsed to provide a waiver of subrogation in favor of the City. All policies shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, nonrenewal, material change, or reduction in coverage until ten (10) days prior written notice has been given to the City Secretary of the City of Lubbock." The insurance carrier must be authorized to do business in the State of Texas and must be rated A- or better by AM Best rating. A certificate of insurance reflecting the required coverage shall be presented to City prior to City's approval and execution of this Permit. Subsequent certificates of insurance shall be provided to City whenever Permittee renews, changes or amends their insurance policies or upon request by City.

21. Indemnity. **PERMITTEE SHALL INDEMNIFY AND SAVE HARMLESS THE CITY OF LUBBOCK AND ITS ELECTED OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY KIND, CHARACTER, TYPE, OR DESCRIPTION, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, TO THE EXTENT ARISING OUT OF, RELATED TO OR OCCASIONED BY, THE NEGLIGENT ACTS OF PERMITTEE, ITS AGENTS, EMPLOYEES, AND/OR CUSTOMERS OR INVITEES,**

RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS PERMIT AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY AND/OR RIGHT-OF-WAY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS PERMIT.

22. Contract with Institution of Higher Education. Permittee must have a current contract with one or more of the institutions of higher education within the City of Lubbock and be able to supply the City Secretary with proof of said contract per section 8.21.002 of the City of Lubbock Code of Ordinances.

23. Compliance with Law. Permittee shall, at its own cost and expense, comply with all applicable laws, including but not limited to existing zoning ordinances, governmental rules and regulations enacted or promulgated by any governmental authority and shall promptly execute and fulfill all orders and requirements imposed by such governmental authorities for the correction, prevention and abatement of nuisances in or upon or connected with said premises because of Permittee's use thereof. Permittee shall also comply with all laws and regulations pertaining to hazardous waste, hazardous materials and the environment.

24. Condition upon Termination. Upon termination of this Permit due to default or convenience to the Permittee, Permittee shall immediately vacate the Right-of-Way, removing all improvements and personal property so as to return the Right-of-Way to the condition which existed on the date this Permit was executed. All personal property not removed at City's request shall become City's property at no cost or expense to City. Upon termination of this Permit for default of or convenience to the City, Permittee shall have fourteen (14) calendar days to remove all improvements and personal property so as to return the Right-of-Way to the condition which existed on the date this Permit was executed. All personal property not removed at the City's request at the end of the fourteen (14) calendar days shall become City's property at no cost or expense to City.

25. Assignment and Subletting. This Permit is personal to Permittee and may not be sold, transferred, assigned or sublet without prior written approval by an authorized representative of City.

26. Notices. All written notices required under this Permit must be hand delivered or sent by certified mail, return receipt requested, and addressed to the proper party at the following addresses:

CITY

City of Lubbock
Attention: City Secretary
1625 13th Street, Room 206
Lubbock, TX 79457

PERMITTEE

Company Name: _____

Address: _____

Phone No.: _____

Email: _____

Program Manager Name: _____

Direct Contact Number: _____

Email: _____

Address: _____

Each party may change the address to which notices are to be sent by giving the other party notice, within ten (10) days, of the new address in the manner provided by this paragraph.

27. Default. It is understood and agreed that, in case of default by Permittee in any of the terms and conditions herein stated and such default continues for a period of ten (10) calendar days after City notifies Permittee of such default, City may, at its election, terminate this Permit and upon such termination all rights of the Permittee hereunder shall cease and come to an end. If such termination results from Permittee's default there shall be no prorated refund to Permittee of the Permit fee for the then current term. However, in the event that termination of this Permit is for the convenience, City shall refund to Permittee the prorated portion of the Permit fee for the then current term. If Permittee files for bankruptcy it shall be a default under this Permit.

28. Prior Agreements. This Permit constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Permit.

29. Texas Law. This Permit shall be construed under, and in accordance with, the laws of the State of Texas. Venue shall lie in Lubbock County, Texas.

30. Amendment. No amendment, modification, or alteration of the terms of this Permit shall be binding unless it is in writing, dated subsequent to this Permit, and duly executed by the parties to this Permit.

31. Authority to Sign. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Permit on behalf of the parties hereto.

EXECUTED as of the ____ day of _____, 2018.

CITY

CITY OF LUBBOCK, TEXAS
A home-rule municipal corporation

By: _____
Becky Garza, City Secretary

PERMITTEE

A _____ Corporation

By: _____
Name, Title